

(65)

A N

# ACT

For the Better Settleing of  
Intestates Estates.



DUBLIN,

Printed by *Andrew Crook*, Printer to the Kings Most  
Excellent Majesty, on *Ormonde-Key*. 1695.

Printed by J. W. Cross, Printer, at the Press of  
the National Academy of Sciences, Washington, D. C.



An Act for the better Settling of Intestates Estates.

22 23 Car: 2.

**B**E it Enacted by the Kings Most Excellent Majesty, with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by the Authority of the same, That all Ordinaries, as well the Judge or Judges of the Prerogative Court of the Arch-Bishop of Ardmagh for the time being, as all other Ordinaries and Ecclesiastical Judges, and every of them having power to Commit Administration of the Goods, Chattles and Credits of Persons Dying Intestate, shall and may upon their Respective Granting and Committing of Administrations of the Goods, Chattles and Credits of Persons Dying Intestate, after the Feast of the Purification of the Blessed Virgin MARY, in this present Year of Our Lord, One Thousand Six Hundred Ninety Five, take and Require of the Respective Person or Persons, to whom any Administration is to be Committed, sufficient Bonds with two or more able Sureties, respect being had to the value of the Estate in the Name of the Ordinary, with the Condition in Manner and Form following, Mutatis Mutandis, vizt.

**T**He Condition of this Obligation is such, That if the within bounden A. B. Administrator of all and Singular the Goods, Chattles, and Credits of E. D. Deceased, do make or cause to be

A 2

made

4

Anno Regni Septimo

made a true and perfect Inventory of all and Singular the Goods and Chattles and Credits of the said E. D. Deceased, which have or shall come to the Hands, Possession or Knowledge of him the said A. B. Or into the Hands or Possession of any other Person or Persons for him, and the same so made do Exhibit or Cause to be Exhibited in the Registry of

at or before the day of next Ensuing, and the same Goods, Chattles and Credits, and all other the Goods, Chattles and Credits of the said Deceased, at the time of his Death, which at any time hereafter shall come to the Hands or Possession of the said A. B. or into the Hands or Possession of any other Person or Persons, for him do well and truly Administer, according to Law ; And further do make or Cause to be made a true and just Account of his said Administration at or before the

day of and all the rest and residue of the said Goods, Chattles and Credits which shall be found remaining, upon the said Administrators Account, the same being first Examined and allowed of by the Judge or Judges for the time being of the said Court, shall deliver and pay unto such Person or Persons Respectively, as the said Judge or Judges by his or their Decree or Sentence, pursuant to the true intent and meaning of this Act shall Limit and Appoint ; And if it shall hereafter appear that any Last Will or Testament was made by the said Deceased, and the Executor or Executors therein Named do Exhibit the same into the said Court, making Request to have it Allowed and Approved accordingly, if the said A. B. within bounden being thereunto Required, do Render and Deliver the said



## Gulielmi Tertii.

5  
said Letters of Administration, Approbation of such Testament being first had and made in the said Court, Then this Obligation to be Void and of none Effect, or else to Remain in full Force and Vertue,

Which Bonds are hereby Declared and Enacted to be good in Law to all intents and purposes, and Pleadable in any Courts of Justice. And also that the said Ordinaries and Judges Respectively, shall and may and are Enabled to proceed against, and call such Administrators to Account for and touching the Goods of any Person Dying Intestate, and upon hearing and due Consideration thereof, to Order and make Just and Equal Distribution of what Remaineth clear after all Debts, Funeral Charges, and Just Expences of every sort first Allowed. and Deducted amongst the Wife and Children or Childrens Children, if any such be, otherwise to the next of Kindred to the dead Person in Equal Degree or Legally Representing their Stockes pro suo cuiq; Jure, according to the Law in such Cases, and the Rules and Limitations hereafter set down, and the same Distribution to Decree and Settle, and to compel such Administrators to observe and pay the same by due Course of his Majesties Ecclesiastical Laws, saving to every One supposing him or themselves aggrieved their Right of Appeal, as was always in such Cases used.

Prohibited always, and be it Enacted by the Authority aforesaid, That all Ordinaries, and every other Person, who by this Act is Enabled to make Distribution of the Surplusage of the Estate of any Person Dying Intestate, shall  
B. Distri-

Distribute the whole Surplusage of such Estate  
 or Estates in Manner and Form following  
 (That is to say) One Third part of the said  
 Surplusage to the Wife of the Intestate, and  
 all the Residue by Equal Portions to and a-  
 mongst the Children of such Persons Dying In-  
 testate, and such Persons as Legally Repre-  
 sent such Children, in Case any of the said  
 Children be then Dead, other then such Child  
 or Children (not being Heir at Law) who  
 shall have any Estate by the Settlement of the  
 Intestate, or shall be Advanced by the Inte-  
 state in his life time by Portion or Portions  
 equal to the share which shall by such Distri-  
 bution be Allocated to the other Children to whom  
 such Distribution is to be made; And in Case  
 any Child (other then the Heir at Law) who  
 shall have any Estate by Settlement from the  
 said Intestate, or shall be Advanced by the said  
 Intestate in his Life time by Portion not equal  
 to the share which shall be due to the other  
 Children by such Distribution, as aforesaid, Then  
 so much of the Surplusage of the Estate of  
 such Intestate, to be Distributed to such Child  
 or Children as shall have any Land by Settle-  
 ment from the Intestate, or were Advanced in  
 the Life time of the Intestate, as shall make  
 the Estate of all the said Children to be equal  
 as near as can be Estimated (but the Heir at  
 Law) Notwithstanding any Land which he shall  
 have by Descent or otherwise from the Intestate,  
 is to have an Equal part in the Distribution  
 with the Rest of the Children, without any  
 Consideration of the Value of Lands which he  
 hath by Descent, or otherwise, from the Inte-  
 state. And in Case there be no Children, nor  
 any



## Gulielmi Tertii.

7

any Legal Representatives of them, then One moiety of the said Estate to be Allotted to the Wife of the said Intestate; the Residue of the said Estate to be Distributed Equally to every of the next of Kindred of the Intestate, who were in Equall Degree, and those who Legally Represent them.

Provided that there be no Representations admitted amongst Collaterals after Brothers and Sisters Children: And in Case there be no Wife, Then all the Estate to be Distributed Equally to and amongst the Children: And in Case there be no Child, then to the next of Kindred in Equal Degree of or unto the Intestate, and their Legal Representatives, as aforesaid, and in no other manner whatsoever.

Provided also, and be it likewise Enacted by the Authority aforesaid, to the End that a due Regard be had to Creditors, that no such Distribution of the Goods of any Person Dying Intestate be made till after One Year be fully Expired after the Intestates Death: And that such and every Person to whom any Distribution or Share shall be Allotted shall give Bonds with sufficient Sureties in the said Courts: Which said Bonds shall be likewise good in Law, and Pleadable in any Courts of Justice, That if any Debt or Debts truly Owning by the Intestate, shall be afterwards Sued for and Recovered, or otherwise duely made, to Appear that then and in every such Case he or she shall Respectively Refund and pay back to the Administrator his or her Ratable part of such Debt or Debts, and of the Costs of Suit and Charges of the Administrator, by reason of such Debt out of the part and Share so as aforesaid Allotted to him or

or her, thereby to Enable the said Administra-  
tor to pay and satisfy the said Debt or Debts  
so discovered, after the Distribution made, as a-  
foresaid.

Provided always, and be it further Enacted,  
by the Authority aforesaid, That in all Cases  
where the Ordinary hath used heretofore to  
Grant Administration cum Testamento annexo,  
he shall continue so to do, and the Will of the  
Deceased in such Testament Expressed shall be  
performed and observed in such manner as it  
should have been if this Act had never been  
made.

Provided always, That neither this Act nor  
any thing therein contained, shall be construed  
to extend to the Estates of Fems Covert that  
shall dye Intestate, but that their Husbands  
may demand and have Administration of their  
Rights, Credits and other Personal Estates,  
and recover and enjoy the same as they might  
have done before the making of this Act.

Provided also, and it is hereby further En-  
acted, That no Administrator shall from hence-  
forth be Cited into any of the Courts in this  
Act mentioned, to render an account of the per-  
sonal Estates of his Intestate, otherwise then  
by an Inventory or Inventories thereof, unless  
it be at the Instance or Prosecution of some  
person or persons in behalf of a Minor, or ha-  
ving a Demand out of such Estate as a Credi-  
tor, or next of Kin, and shall not be compella-

Account before any the Ordinaries or  
Judges by this Act impowered and appointed  
to take the same otherwise then as is afore-  
said.

And be it further Enacted by the Authority  
aforesaid,



aforesaid, That if after the death of a Father, any of his Children shall dye Intestate without Wife or Children in the life time of the Mother, every Brother and Sister and the Representatives of them, shall have an equal share with her, any Law, Usage or Custom to the contrary notwithstanding.

And whereas it hath been heretofore used, That in case any Executor or Administrator, to any Person deceased, did obtain any Judgment or Judgments in Law, in any of His Majesty's Courts of Record within this Kingdom of Ireland, in his or their own Name or Names for any Debt due unto his or their Testator or Intestate, and did happen to Dye before any Execution sued forth by him or them upon such Judgment or Judgments, the effect or benefit of such Judgment or Judgments was wholly lost, and such Person or Persons to whom Letters of Administration of the Goods Unadministered to such first Testator or Intestate were Committed could not by the Rules of Law have any Benefit or Advantage of such Judgment or Judgments by Scire Facias, or otherwise, but were forced for the Recovering of such Debt or Duty to sue forth a New Original to their great Expence and delay : For Remedy whereof,

Be it Enacted by the Authority aforesaid, That from henceforth in all such Cases it shall and may be Lawful for any Administrator or Administrators of the Goods Unadministered of such first Testator or Intestate to sue forth any Writ or Writs of Scir. Fac. upon any such Judgment or Judgments so had and obtained in the Name or Names of such Executor or Administrator,

Arator, and have the Benefit and Advantage of such Judgment or Judgments as fully to all Intents and Purposes as such Executor or Administrator himself might have had if he or they had been Living and sued forth such Writ or Writs upon any such Judgment, Any Law, Custom or Usage to the Contrary hereof in any wise Notwithstanding.

And whereas it has been held that there is a certain Custom within this Kingdom of Ireland, to the effect following, that is to say, That if any Person Dye possessed of or Intituled to any Goods, Things in Action, or Personal Estate whatsoever; And having at the time of his Death a Wife or Child or Children, That in such Case all the said Estate is to be divided into three equal parts, whereof one third part belongs to the Wife, another to the Child or Children, and the other third part only to be subject to the disposition of the Party Deceased, by his Last Will or Testament, in Case he make any, or to go in a Course of Administration, in Case he Dye Intestate, and if he leave a Wife only, and no Child or Children, then the said Estate to be divided into two parts, whereof the One Moiety to go to the Wife, and the other Moiety only to be subject to his disposition by Will, as aforesaid, otherwise to go in a Course of Administration in Case he Dye Intestate; And so in like manner if he shall leave a Child or Children, and no Wife.

Now it is hereby Declared, That the said Custom shall from henceforth be Absolutely Null and Void to all Intents and Purposes whatsoever; and shall not be taken to be in force or to be binding to any Person or Persons whatsoever.  
And



## Gulielmi Tertii.

11

And Whereas the Executors and Administrators of such Persons who have possessed themselves of Considerable Personal Estates of other Dead Persons, and Converted the same to their own use have no Remedy by the Rules of the Common Law, as it now stands, to pay the Debts of those Persons whose Estate hath been so Converted by their Testator or Intestate, which hath been found very Mischievous, and many Creditors defeated of their Just Debts, although their Debtors left behind them sufficient to satisfy the same with a great Overplus. For Remedy Whereof.

Be it further Enacted by the Authority aforesaid, That all and every the Executors and Administrators of any Person or Persons who as Executor or Executors in his or their own Wrong, or as Administrator shall from and after the Fifth day of November, in this present Year of Our Lord, One Thousand Six Hundred Ninety and Five, Waste or Convert any Goods, Chattels, Estate or Assets of any Person Deceased to their own use shall be liable and Chargable to make good the same out of the Assets of such Testator or Intestate.

F I N I S.

